IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 5296 of 2004(E)

PETITIONER:

KALLAMPARAMBATH MUSTHAFFA,
S/O. KUNJABDULLA, THARIF VILLA,
KALLAMPARAMBATH HOUSE, GRAMTHI, P.O. CHOCKLI.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:
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1. **REGIONAL OFFICER (KERALA),**
   REGIONAL OFFICE EMPLOYEES STATE INSURANCE CORPORATION, PANCHDEEP BHAVAN, NORTH SWARAJ ROUND, TRICHUR-20.

2. **ASSISTANT DIRECTOR,**
   REGIONAL OFFICER (KERALA) EMPLOYEES STATE INSURANCE CORPORATION, PANCHDEEP BHAVAN, NORTH SWARAJ ROUND, TRICHUR-20.

3. **RECOVERY OFFICER,**
   EMPLOYEES STATE INSURANCE CORPORATION, PANCHDEEP BHAVAN, NORTH SWARAJ ROUND, TRICHUR-20.

BY ADV. SMT.T.D.RAJALAKSHMY, SC, ESI CORPN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/08/2007, ALONG WITH WPC NO. 28976 OF 2005 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).Nos.5296 OF 2004 & 28976 OF 2005

Dated this the 10th day of August, 2007

JUDGMENT

Kallamparambath Musthaffa filed W.P(C).No.5296/04 challenging the proceedings initiated by the ESI Corporation. In opposition to the contentions in that writ petition, a counter affidavit was filed on behalf of the Corporation in December, 2004, with copy to the counsel appearing for the petitioner, in which, it was categorically pleaded that the petitioner never made any complaint about the demands by raising disputes before the ESI Court and further that the petitioner had never raised any contention as is now put forward in the writ petition ever since he purchased the establishment in 1994, though the Corporation had been repeatedly requesting him to comply with the provisions of the statute. The Corporation also challenged the authenticity of Exts.P1 and P2 and contended, without admitting them, that even if that documents are treated as genuine, the rental arrangement was only for a short period of 11 months and again for a further period of 11 months during

different periods. There is no reply affidavit on record in that case.

2. It appears that Kallamparmbath Musthaffa died during the pendency of W.P(C).5296/04 and the assets devolved on the heirs to be governed by the decree Ext.P1 in W.P(C).28976/05, which is filed on behalf of the heirs, challenging the proceedings essentially as a continuation of W.P(C).5296/04.

3. Having regard to the fact no proceedings were filed before the statutory authorities either by the petitioner or his heirs within the time prescribed therein, though statutory remedies were open, and because the story of the petitioners are not acceptable, as rightly contended by the Corporation, I find no merit in these writ petitions.

In the result, these writ petitions are dismissed.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.